IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 15954 of 2004(Y)

PETITIONER:

V.P.S.MADHAVAN, NO.773280701, HEAD CONSTABLE/GD, CISF UNIT, FACT, UDYOGAMANDAL, COCHIN.

BY ADV. SRI.M.RAJAGOPALAN
SRI.RAJIT

RESPONDENTS:

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1. THE DIRECTOR GENERAL C I S F, CISF HEAD QUARTERS, LODHI ROAD, NEW DELHI - 3.

2. THE DEPUTY GENERAL CISF(S2), S.Z. HEAD QUARTERS, RAJAJI BHAVAN, BASANT NAGAR, CHENNAI.

3. THE COMMANDANT, CISF UNIT,FACT, UDYOGAMANDAL, COCHIN.

BY ADV. SRI.V.V.SURESH, ADDL.CGSC
SRI.JOHN VARGHESE, SCGSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C.NO.15954/2004.

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE ORDER NO.E-31014/2(1)/2002/ESTT.II/888 DT. 16.5.2002.

EXT.P2 : TRUE COPY OF THE REPRESENTATIOND T. 21.8.2003.

EXT.P3 : TRUE COPY OF THE CLARIFICATION LETTER NO.E-42016 DT. 16.4.1987.

EXT.P4 : TRUE COPY OF THE LETTER NO.E-31015/26/2003E2(SZ)/7327 DT. 9.10.2003.

RESPONDENTS' EXHIBITS :

EXT.R3A TRUE COPY OF THE CIRCULAR DT. 20.5.1985 ISSUED BY THE DIRECTOR GENERAL, CISF.

EXT.R3B TRUE COPY OF THE CHARGE MEMO DT. 17.5.2002 ISSUED TO THE PETITIONER.

EXT.R3C TRUE COPY OF THE SHOW CAUSE NOTICE DT. 29.7.2002 ISSUED TO THE PETITIONER.

KURIAN JOSEPH, J.

W.P(C)No.15954 of 2004

Dated this the 30th day of March, 2007

JUDGMENT

Petitioner is aggrieved since he is denied due promotion. It is seen from Ext.P1 order dated 16-5-2002 that the petitioner has already been ordered to be promoted. It is stated in the order itself that promotion can be denied only during currency of a punishment. The stand taken in the counter affidavit is that the petitioner was under disciplinary action during the relevant time and he was awarded with a penalty of fine of one day's pay by order dated 17-5-2002. As on the date of promotion there was no punishment. Promotion can be denied only if as on the date of promotion an incumbent is serving a punishment. In that view of the matter it is not necessary for this court to go into the other contentions regarding propriety of Ext.R3(b) order dated 17-5-2002. I quash Ext.P4. It is declared that the petitioner shall be entitled to all the consequential benefits as per Ext.P1 order of promotion. The benefits shall be disbursed to the petitioner within a period of one month from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.